

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 27, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STEVEN BONNER, individually,

Plaintiff,

v.

SEARS ROEBUCK & CO.,

Defendant.

No. 2:18-CV-00288-SAB

**ORDER DENYING MOTION,
DISMISSING CASE, AND
CLOSING FILE**

Before the Court is Plaintiff's Motion for Leave to Withdraw on Behalf of Brandon R. Casey and Ryan C. Swapp, ECF No. 79. Plaintiff is represented by Brandon R. Casey and Ryan C. Swapp. Defendant is represented by Ryan W. Vollans. The motion was heard without oral argument.

After this case withered on the vine for six years, Plaintiff's counsel moves the Court to withdraw as counsel. The Court denies the motion but dismisses the case without prejudice.

It is unfortunate to hear of Plaintiff's apparent death on April 7, 2023. Plaintiff's counsel indicates that Plaintiff died without heirs other than his sisters and that the family members do not intend to file a probate and/or appoint a personal representative.

Under Washington State law, "No action for a personal injury to any person occasioning death shall abate, nor shall such right of action terminate, by reason of such death, if such person has ... surviving parents or siblings." RCW 4.20.060(1).

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Furthermore, Plaintiff's counsel cannot amend the complaint pursuant to RCW 4.20.060(2) and proceed with a survival action. *Klossner v. San Juan County*, 21 Wn. App. 689, 690, 586 P.2d 899 (1978) ("a surviving personal injury action ... can only be filed by the personal representative of the states for the benefit of or in favor of certain designated beneficiaries").

After reviewing the present motion and being fully informed, the Court denies Plaintiff's motion and dismisses this case without prejudice.

Accordingly, **IT IS HEREBY ORDERED:**

1. Plaintiff's Motion for Leave to Withdraw on Behalf of Brandon R. Casey and Ryan C. Swapp, ECF No. 79, is **DENIED**.

2. The above-captioned action is **DISMISSED without prejudice** pursuant to Fed. R. Civ. P. 41(a)(2) without costs or attorneys' fees to any party.

3. Any pending motions are **DISMISSED as moot**.

4. The status conference set for June 4, 2024 and all other deadlines are **STRICKEN** from the Court's calendar.

IT IS SO ORDERED. The District Court Clerk is hereby directed to file this Order, provide copies to counsel, and **close** the file.

DATED this 27th day of March 2024.



A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

Stanley A. Bastian
Chief United States District Judge